



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Colorado State Office  
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[www.co.blm.gov](http://www.co.blm.gov)



**SEP 07 2017**

In Reply Refer To:  
3120 (CO-922)

CERTIFIED MAIL – Return Receipt Requested

### DECISION

Rebecca Fischer  
WildEarth Guardian  
2590 Walnut St.  
Denver, CO 80205

#### **September 2017 Competitive Oil & Gas Lease Sale** **Protest of 10 Lease Parcels Denied**

The protest period for the September 2017 Bureau of Land Management (BLM) Colorado Competitive Oil and Gas Lease Sale began June 9, 2017, and closed on July 10, 2017. This office received one timely protest from WildEarth Guardians, arguing against the inclusion of all 10 parcels in the lease sale. The record shows that the protester submitted untimely written comments on documents related to the lease sale that were previously posted for public review by the BLM. The BLM denies the protest without deciding whether the protester's untimely comments provided a sufficient basis for standing to protest the lease sale.

### BACKGROUND

The BLM accepted expressions of interest for the September 2017 lease sale until August 1, 2016. The 10 parcels considered for the September 2017 lease sale include approximately 1,227.5 acres of Federal fluid mineral estate. Nine of the parcels are located in the BLM Colorado Royal Gorge Field Office (RGFO) and one parcel is located in the Arapaho-Roosevelt National Forest's Pawnee National Grassland (PNG). The U.S. Forest Service manages the surface estate of the PNG parcel. The BLM administers the mineral estate of all of the parcels.

After preliminary adjudication of the nominated parcels by the BLM Colorado State Office, the parcels were reviewed by the RGFO. This interdisciplinary review included field visits to the nominated parcels, and determination of conformance with the current Resource Management Plans (RMP). The RGFO prepared an Environmental Assessment (EA), DOI-BLM-CO-F020-2017-0003-EA (EA 2017-0003) for a proposed action that included the sale of nine of the ten

parcels. The impacts of leasing and oil and gas development of lands that include parcel COC78539 were considered in the Final Environmental Impact Statement for the PNG Oil and Gas Leasing Analysis (PNG FEIS) prepared by the Forest Service in February 2015. The RGFO prepared a Determination of NEPA Adequacy (DNA), DOI-BLM-CO-F020-2017-0018-DNA (DNA 2017-0018) to confirm the sufficiency of the analysis in the PNG FEIS. BLM is adopting the PNG FEIS.

EA 2017-0003 was made available to the public for a 30-day public comment period, from February 10, 2017, through March 13, 2017. The lease sale notice, revised EA 2017-0003, and DNA 2017-0018 were made available on June 9, 2017, initiating a 30-day protest period through July 10, 2017.

**TABLE 1: 10 Lease Sale Parcels**

Protesting Organization	Parcels Protested
WildEarth Guardians	COC 78531
	COC78532
	COC78533
	COC78534
	COC78535
	COC78538
	COC78537
	COC78539
	COC78540
	COC78536

The BLM has reviewed your protest arguments in their entirety; the substantive arguments are summarized into issues, with BLM responses following.

## **ISSUES**

The following issues were raised in the protest letter:

**Issue 1:** The BLM fails to fully analyze and assess the cumulative impacts of greenhouse gas emissions that would result from issuing the proposed lease parcels.

### Response

EA 2017-0003 includes quantitative discussion of potential greenhouse gas emissions associated with oil and gas operations under the reasonable development scenario for the planning area. (See, e.g., Section 3.3 – Past, Present and Reasonably Foreseeable Actions; Section 3.5.1- Air Quality and Climate, pages 13 through 48.) This discussion sufficiently describes the reasonably foreseeable environmental consequences of leasing and potential development, including the expected cumulative impacts of greenhouse gas emissions (specifically page 31 through 48). PNG FEIS includes quantitative discussion of potential greenhouse gas emissions associated with oil and gas operations in the PNG. See PNG FEIS Section 3.10.2 - Environmental Impacts to Air Quality from Potential PNG Oil and Gas Development, pages 152 through 190, for its cumulative impacts analysis.

No new data was presented with this protest that would warrant further analysis. If oil and gas operations are proposed for any of the subject leases, BLM will complete a site-specific NEPA analysis of the proposal(s) utilizing the best available tools and most current data. For these reasons, we deny this portion of the protest.

**Issue 2:** BLM fails to analyze the social costs of reasonably foreseeable carbon emissions using well accepted, valid, credible, GAO-endorsed, interagency methods for assessing carbon costs.

#### Response

In EA 2017-0003 and the PNG EIS, the BLM acknowledges that anthropogenic greenhouse gas emissions are contributing to climate change. To examine carbon emissions in the EA, the BLM includes estimates of baseline and a projected range of future greenhouse gas emissions including upstream, midstream and downstream operations related to potential new oil and gas development activity on the lease parcels. The climate change analysis in both the EA and PNG EIS recognize that there are adverse environmental impacts associated with the development and use of fossil fuels and discusses potential impacts qualitatively.

Further, the applicable NEPA analyses for this proposed action do not include monetary estimates of any benefits or costs. The CEQ regulation states (in part), “[f]or purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations.” 40 C.F.R. § 1502.23. The NEPA documents on which BLM relies for the September 2017 lease sale (EA 2017-0003 and the PNG EIS) provide a qualitative social and economic impact analysis (EA 2017-0003) and a qualitative social impact analysis and a quantitative economic impact analysis (PNG EIS). The PNG EIS clearly articulates that the economic impact analysis conducted is different from a cost-benefit analysis and that the quantified economic impact results cannot be interpreted as economic benefits or costs. Therefore, neither EA 2017-0003 nor the PNG EIS provide quantitative monetary costs or benefits. Without any other monetized benefits or costs reported, monetized estimates of the social cost of carbon emissions would be presented in isolation, without any context for evaluating their significance. This limits the usefulness of such estimates to the decision maker. Moreover, no court decision or existing guidance requires the inclusion of estimates of the social cost of carbon emissions in the NEPA context. For these reasons, we deny this portion of the protest.

#### **CONCLUSION**

After careful review, I have determined that BLM will offer 10 parcels in the September 7, 2017 lease sale. The protest issues related to these parcels have been evaluated, and are denied for the reasons discussed above.

WildEarth Guardians’ arguments relate to the adequacy of BLM’s NEPA analysis, but WildEarth Guardians failed to timely participate in the NEPA process leading to the decision. BLM denies the protest for the reasons discussed above, without deciding whether the protester’s untimely comments provided a sufficient basis for standing to protest the lease sale.

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1 (enclosed). If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from your receipt of this decision. The person appealing the decision has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision, to the IBLA, and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the protestor's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.



for John D. Beck  
Acting Deputy State Director  
Division of Energy, Lands and Minerals

Enclosure

1 - Appeal Form (1842-1)

cc: District Manager, Rocky Mountain District Office  
Field Manager, Royal Gorge Field Office  
Office of the Solicitor, Rocky Mountain Region